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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,635	01/14/2002	Christoph Herrmann	DE 010014	4797
24737	7590	11/15/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			MATTIS, JASON E	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2616	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/046,635	HERRMANN, CHRISTOPH	
	Examiner	Art Unit	
	Jason E. Mattis	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 August 2006.
- 2a) This action is FINAL. 2b) This action is non-final,
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

1. This Office Action is in response to the amendment filed 8/30/06. Claim 2 has been cancelled. Claims 1 and 3-5 are currently pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Peisa et al. (U.S. Pat. 6,850,540 B1).

With respect to claim 1, Peisa et al. discloses a wireless network having a radio network controller and a plurality of assigned terminals (**See column 1 line 64 to column 2 line 16 and Figure 1 of Peisa et al. for reference to UMTS network 100, which is a wireless network, having radio network controllers 140 and a plurality of user equipments 110, which are assigned terminals**). Peisa et al. also discloses terminals transmitting transport blocks formed from packet units on a transport channel that is assigned a transmission time interval and forms at least one transport format

combination (**See column 5 lines 18-34 of Peisa et al. for reference to transporting blocks a data formed from packets that are fit into a specific time interval and a format outlined by a transport format combination**). Peisa et al. also discloses determining a required transport format combination including packets waiting for transmission with the transport format combination corresponding to the required transport format combination or the transport formation combination the comes closest to it being selected (**See column 10 lines 15-28 and Figure 3 of Peisa et al. for reference to choosing the best available transport format combination to accommodate packets that are scheduled to be output for each selected data flow**). Peisa et al. further discloses that if the required transport format combination is not included in the set of prescribed transport formation combinations, selecting the transport format combination that has the smallest distance with reference to a metric relating to the required transport format combination (**See column 10 lines 29-56 and Figure 4 of Peisa et al. for reference to choosing the best transport format combination based on which transport format combination comes closest to allocating the correct fair share bandwidth to each data stream, which is a metric relating to the transport format combination**).

With respect to claim 5, Peisa et al. discloses that if the required transport format combination is not included in the set of prescribed transport formation combinations, selecting a transport format combination smallest distance with reference to a metric relating to the required transport format combination based on sequence priority of logic channels (**See column 5 lines 18-34, column 10 lines 29-56, and**

Figure 4 of Peisa et al. for reference to choosing the best transport format combination based on which transport format combination comes closest to allocating the correct fair share bandwidth to each data stream based on priority of the data flows, which is a metric relating to the transport format combination).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peisa et al. in view of Song (U.S. Pat. 6,813,506 B1).

With respect to claim 3, Peisa et al. does not disclose that if the selected transport format combination has more transport blocks than required, filling the absent transport blocks without useful data.

With respect to claim 3, Song, in the field of communications, discloses a system where if a selected transport format combination has more transport blocks than required, absent transport blocks are filled without useful data (**See column 1 line 31 to column 2 line 4 of Song for reference to padding extra bits in a selected transport format combination with useless data**). Filling absent transport blocks without useful

data if a selected transport format combination has more transport blocks than required has the advantage of allowing data to be fit into the selected format even when there is not enough data to fill every transmission block.

It would have been obvious for one of ordinary skill in the art at the time of the invention, when presented with the work of Song, to combine filling absent transport blocks without useful data if a selected transport format combination has more transport blocks than required, as suggested by Song, with the system and method of Peisa et al., with the motivation being to allow data to be fit into the selected format even when there is not enough data to fill every transmission block.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peisa et al. in view of Song as applied to claim 3 above, and further in view of Wada et al. (U.S. Pat. 5,379,116).

With respect to claim 4, the combination of Peisa et al. and Song does not disclose filling extra blocks without useful data such that a ratio of filling blocks to actually transmitted blocks with useful data is not exceeded.

With respect to claim 4, Wada et al., in the field of communications, discloses filling extra blocks without useful data such that a ratio of filling blocks to actually transmitted blocks with useful data is not exceeded (**See column 3 lines 16-29 of Wada et al. for reference to making sure that the ratio of idle fill bits to actual data bits does not exceed a threshold**). Filling extra blocks without useful data such that a ratio of filling blocks to actually transmitted blocks with useful data is not exceeded has

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the advantage of making sure that an excess amount of transmission bandwidth is not wasted by sending a large amount of useless data.

It would have been obvious for one of ordinary skill in the art at the time of the invention, when presented with the work of Wada et al., to combine filling extra blocks without useful data such that a ratio of filling blocks to actually transmitted blocks with useful data is not exceeded, as suggested by Wada et al., with the system and method of Peisa et al. and Song, with the motivation being to make sure that an excess amount of transmission bandwidth is not wasted by sending a large amount of useless data.

Response to Arguments

7. Applicant's arguments filed 8/30/06 have been fully considered but they are not persuasive.

In response to Applicant's argument that the method of choosing a transport format combination disclosed by Peisa et al. is not equivalent to the claimed selecting of the transport format combination "that has the smallest distance with reference to a metric relating to the required transport format combination if the required transport format combination is not included in the set of prescribed transport format combination", the Examiner respectfully disagrees. Peisa et al. discloses calculating a set of fair bandwidth shares for each input flow to be transmitted (See column 10 lines 40-44 and steps 415 and 420 in Figure 3 of Peisa et al.). The calculated set of fair bandwidth shares is a type of metric relating to a required transport format combination,

as claimed. Peisa et al. also discloses using the set of fair bandwidth shares to select a transport format combination from a set of available transport format combinations that most closely matches the set of fair bandwidth shares (See column 10 lines 45-47 and step 425 in Figure 3 of Peisa et al.). Selecting the transport format combination that most closely matches the set of fair bandwidth shares is equivalent to selecting the transport format combination having the smallest distance with reference to a metric, as claimed. Therefor Peisa et al. does disclose all the elements of claim 1 and the rejection above is proper.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason E. Mattis whose telephone number is (571) 272-3154. The examiner can normally be reached on M-F 8AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jem



HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600